

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**3:09cv234**

**3:04cr296**

**BILLY DEE WILLIAMS,**

**Petitioner,**

**v.**

**UNITED STATES OF AMERICA,**

**Respondent.**

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**ORDER**

**THIS MATTER** comes before the Court on limited remand from the United States Court of Appeals for the Fourth Circuit so that the record may be supplemented to include a ruling issuing or denying a certificate of appealability. (Doc. No. 7.)

On June 9, 2009, Petitioner filed motion to Vacate, Set Aside, or Correct Sentence. (Doc. No. 1) On September 9, 2010, this Court dismissed Petitioner's Motion to Vacate, Set Aside, or Correct Sentence for failing to establish that his counsel was ineffective. (Doc. No. 2.) This Court did not, however, rule on whether or not a certificate of appealability should issue.

Rule 11(a) of the Rules Governing Section 2255 Cases requires a district court to "issue or deny a certificate of appealability when it enters a final order adverse to the applicant." A court may issue a certificate of appealability only if a petitioner has made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). In order to satisfy this standard when a claim has been rejected on the merits, a petitioner must demonstrate that "reasonable jurists would find the district court's assessment of the constitutional claims

debatable or wrong.” Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). After reviewing the record, this Court concludes that this standard has not been met. The Court thus declines to issue a certificate of appealability.

**SO ORDERED.**

Signed: October 21, 2010

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
Chief United States District Judge

